

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

AARON JOHNSON,)	
)	
Plaintiff,)	
vs.)	NO. CIV-05-0439-HE
)	
RON WARD, DIRECTOR, OKLAHOMA)	
DEPARTMENT OF CORRECTIONS,)	
)	
Defendant.)	

ORDER


Plaintiff Aaron Johnson, a state prisoner appearing pro se, instituted this action pursuant to 28 U.S.C. § 2241 seeking a writ of habeas corpus. Consistent with 28 U.S.C. §636(b)(1)(B) and (C), the matter was referred for initial proceedings to Magistrate Judge Valerie K. Couch, who has issued a Report and Recommendation suggesting that the petitioner's claims for relief requesting restoration of earned credits and expungement of the petitioner's Feb. 9, 2004, misconduct conviction be dismissed as moot. She also concluded that the petitioner's request that his former classification level be restored lacked merit and recommended that it be denied.

The petitioner failed to object to the Report and Recommendation and, accordingly, waived his right to appellate review of the factual and legal issues it addressed. United States v. One Parcel of Real Property, 73 F.3d 1057, 1059-60 (10th Cir. 1996), *cert. denied*, 519 U.S. 909 (1996). *See* 28 U.S.C. § 636(b)(1)(c); LCvR72.1(a). The court also concurs with the Magistrate Judge's analysis of his claims.

Accordingly, the court adopts Magistrate Judge Couch's Report and Recommendation, and dismisses as moot the petitioner's claims for relief requesting restoration of earned credits and expungement of his Feb. 9, 2004, misconduct conviction. The petitioner's claim seeking restoration of his former classification level is denied. These rulings moot the respondent's motion to dismiss [Doc. #10].¹

IT IS SO ORDERED.

Dated this 23rd day of September, 2005.



JOE HEATON
UNITED STATES DISTRICT JUDGE

¹The respondent sought dismissal of the petitioner's claims for failure to exhaust his available state remedies.